

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1112**

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**Introduced by Assembly Member Huffman**  
**(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley,**  
**Dickinson, Gatto, Gordon, Monning, and Williams)**

February 18, 2011

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An act to amend Sections 8670.39, 8670.40, ~~and 8670.41 of, to amend and repeal Section 8670.41, and~~ 8670.42 of, and to add Section 8670.32 to, the Government Code, and to add and repeal Section 6226 of the Public Resources Code, relating to oil spills.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1112, as amended, Huffman. Oil spill prevention and administration fee: State Lands Commission.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. The act requires the administrator to periodically carry out announced and unannounced drills to test response and cleanup operations, equipment, contingency plans, and procedures.

This bill would require the administrator to develop *and implement* a screening mechanism and ~~conduct a risk assessment of vessels engaged~~

~~in bunkering and lightering operations and determine the highest risk transfers a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a dock. The bill also would specify requirements regarding monitoring and inspections of oil transfer operations require that the administrator identify bunkering and lightering operations that pose the highest risk of a pollution incident and coordinate with the United States Coast Guard to routinely monitor and inspect those operations. The bill would require the administrator to establish regulations to provide for the best achievable protection during bunkering and lightering operations in the marine environment.~~

(2) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed \$0.05 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill would revise that fee to an amount not to exceed ~~\$0.08~~ \$0.07 per barrel of crude oil or petroleum products. The bill would also authorize the administrator to adjust the maximum fee annually for inflation, as measured by the California Consumer Price Index. The bill also would require the State Auditor to conduct an audit of the fund by January 1, 2013.

(3) Existing law requires the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing certain provisions relating to nontank vessels. Revenue from the fee is deposited into the Oil Spill Prevention and Administration Fund for appropriation by the Legislature for specified purposes.

~~This bill would establish that provide that, before January 1, 2012, this fee at shall not exceed \$3,000 per nontank vessel for the administrator's costs in implementing those provisions relating to nontank vessels.~~

(4) Existing law requires the Department of Fish and Game to contract with the Department of Finance to prepare and submit to the Governor and the Legislature, on or before January 1, 2005, a detailed report on the financial basis and programmatic effectiveness of the state's oil spill prevention, response, and preparedness program.

This bill would require the Department of Fish and Game and the State Lands Commission, independently, to contract with the Department of Finance to prepare and submit that report to the Governor and the Legislature, on or before January 1, 2013, and no less than once every 4 years thereafter. ~~This provision would be repealed on January 1, 2017.~~

(5) Under existing law, the State Lands Commission has jurisdiction over state lands and ungranted tidelands and submerged lands owned by the state.

This bill would require the State Lands Commission, on or before March 1, 2012, *in consultation with the Department of Conservation*, to report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling. This provision would be repealed on January 1, 2016.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8670.32 is added to the Government  
2 Code, to read:

3 8670.32. ~~(a) The administrator shall develop a screening~~  
4 ~~mechanism and conduct a risk assessment of vessels engaged in~~  
5 ~~bunkering and lightering operations and determine the highest risk~~  
6 ~~transfers.~~

7 ~~(b) The administrator shall increase by 2 percent annually the~~  
8 ~~monitoring and inspection of vessel oil transfer operations, until~~  
9 ~~a minimum of 10 percent of all oil transfer operations are being~~  
10 ~~routinely monitored and inspected. The monitoring and inspections~~  
11 ~~shall be conducted to ensure that a vessel has the appropriate~~  
12 ~~equipment in the event of an oil spill.~~

13 ~~(c) A minimum of 50 percent of oil transfer operations subject~~  
14 ~~to monitoring and inspections shall be conducted at fuel transfer~~  
15 ~~operations occurring at anchorage.~~

16 8670.32. (a) *To reduce the risk of an oil spill as a result of*  
17 *fuel and lube oil transfers, the administrator shall develop and*  
18 *implement a screening mechanism and a comprehensive risk-based*  
19 *monitoring program for inspecting the bunkering and lightering*  
20 *operations of vessels at anchor and alongside a dock. This program*

1 *shall identify those bunkering and lightering operations that pose*  
2 *the highest risk of a pollution incident.*

3 *(b) The administrator shall ensure that all bunkering and*  
4 *lightering operations that, pursuant to subdivision (a), pose the*  
5 *highest risk of a pollution incident are routinely monitored and*  
6 *inspected. The administrator shall coordinate the monitoring and*  
7 *inspection program with the United States Coast Guard.*

8 *(c) The administrator shall establish regulations to provide for*  
9 *the best achievable protection during bunkering and lightering*  
10 *operations in the marine environment.*

11 SEC. 2. Section 8670.39 of the Government Code is amended  
12 to read:

13 8670.39. (a) The administrator shall administer the fund in  
14 accordance with this article.

15 (b) The administrator may develop and adopt any rules,  
16 regulations, and guidelines determined to be necessary to carry  
17 out and enforce this article.

18 (c) By January 1, 2013, the State Auditor shall conduct an audit  
19 of the fund.

20 SEC. 3. Section 8670.40 of the Government Code is amended  
21 to read:

22 8670.40. (a) The State Board of Equalization shall collect a  
23 fee in an amount determined by the administrator to be sufficient  
24 to carry out the purposes set forth in subdivision (e), and a  
25 reasonable reserve for contingencies. The annual assessment shall  
26 not exceed ~~eight cents (\$0.08)~~ *seven cents (\$0.07)* per barrel of  
27 crude oil or petroleum products. The administrator may adjust the  
28 maximum fee annually for inflation, as measured by the California  
29 Consumer Price Index.

30 (b) (1) The oil spill prevention and administration fee shall be  
31 imposed upon a person owning crude oil at the time that the crude  
32 oil is received at a marine terminal from within or outside the state,  
33 and upon a person owning petroleum products at the time that  
34 those petroleum products are received at a marine terminal from  
35 outside this state. The fee shall be collected by the marine terminal  
36 operator from the owner of the crude oil or petroleum products  
37 based on each barrel of crude oil or petroleum products so received  
38 by means of a vessel operating in, through, or across the marine  
39 waters of the state. In addition, an operator of a pipeline shall pay  
40 the oil spill prevention and administration fee for each barrel of

1 crude oil originating from a production facility in marine waters  
2 and transported in the state by means of a pipeline operating across,  
3 under, or through the marine waters of the state. The fees shall be  
4 remitted to the board by the terminal or pipeline operator on the  
5 25th day of the month based upon the number of barrels of crude  
6 oil or petroleum products received at a marine terminal or  
7 transported by pipeline during the preceding month. A fee shall  
8 not be imposed pursuant to this section with respect to crude oil  
9 or petroleum products if the person who would be liable for that  
10 fee, or responsible for its collection, establishes that the fee has  
11 been collected by a terminal operator registered under this chapter  
12 or paid to the board with respect to the crude oil or petroleum  
13 products.

14 (2) An owner of crude oil or petroleum products is liable for  
15 the fee until it has been paid to the board, except that payment to  
16 a marine terminal operator registered under this chapter is sufficient  
17 to relieve the owner from further liability for the fee.

18 (3) On or before January 20, the administrator shall annually  
19 prepare a plan that projects revenues and expenses over three fiscal  
20 years, including the current year. Based on the plan, the  
21 administrator shall set the fee so that projected revenues, including  
22 interest, are equivalent to expenses as reflected in the current  
23 Budget Act and in the proposed budget submitted by the Governor.  
24 In setting the fee, the administrator may allow for a surplus if the  
25 administrator finds that revenues will be exhausted during the  
26 period covered by the plan or that the surplus is necessary to cover  
27 possible contingencies. The administrator shall notify the board  
28 of the adjusted fee rate, which shall be rounded to no more than  
29 four decimal places, to be effective the first day of the month  
30 beginning not less than 30 days from the date of the notification.

31 (c) The moneys collected pursuant to subdivision (a) shall be  
32 deposited into the fund.

33 (d) The board shall collect the fee and adopt regulations for  
34 implementing the fee collection program.

35 (e) The fee described in this section shall be collected solely  
36 for all of the following purposes:

37 (1) To implement oil spill prevention programs through rules,  
38 regulations, leasing policies, guidelines, and inspections and to  
39 implement research into prevention and control technology.

1 (2) To carry out studies that may lead to improved oil spill  
2 prevention and response.

3 (3) To finance environmental and economic studies relating to  
4 the effects of oil spills.

5 (4) To reimburse the member agencies of the State Interagency  
6 Oil Spill Committee for costs arising from implementation of this  
7 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter  
8 7 of this code, and Division 7.8 (commencing with Section 8750)  
9 of the Public Resources Code.

10 (5) To implement, install, and maintain emergency programs,  
11 equipment, and facilities to respond to, contain, and clean up oil  
12 spills and to ensure that those operations will be carried out as  
13 intended.

14 (6) To respond to an imminent threat of a spill in accordance  
15 with the provisions of Section 8670.62 pertaining to threatened  
16 discharges. The cumulative amount of an expenditure for this  
17 purpose shall not exceed the amount of one hundred thousand  
18 dollars (\$100,000) in a fiscal year unless the administrator receives  
19 the approval of the Director of Finance and notification is given  
20 to the Joint Legislative Budget Committee. Commencing with the  
21 1993–94 fiscal year, and each fiscal year thereafter, it is the intent  
22 of the Legislature that the annual Budget Act contain an  
23 appropriation of one hundred thousand dollars (\$100,000) from  
24 the fund for the purpose of allowing the administrator to respond  
25 to threatened oil spills.

26 (7) To reimburse the board for costs incurred to implement this  
27 chapter and to carry out Part 24 (commencing with Section 46001)  
28 of Division 2 of the Revenue and Taxation Code.

29 (8) To reimburse the costs incurred by the State Lands  
30 Commission in implementing the former Oil Transfer and  
31 Transportation Emission and Risk Reduction Act of 2002 (Division  
32 7.9 (commencing with Section 8780) of the Public Resources  
33 Code).

34 (9) To cover costs incurred by the Oiled Wildlife Care Network  
35 established by Section 8670.37.5 for training and field collection,  
36 and search and rescue activities, pursuant to subdivision (g) of  
37 Section 8670.37.5.

38 (f) The moneys deposited in the fund shall not be used for  
39 responding to an oil spill.

1 SEC. 4. Section 8670.41 of the Government Code is amended  
2 to read:

3 8670.41. (a) ~~The~~ *(1) On and after January 1, 2012, the*  
4 *administrator shall charge a nontank vessel owner or operator a*  
5 *reasonable fee, to be collected with each application to obtain a*  
6 *certificate of financial responsibility, in the amount of three*  
7 ~~*thousand dollars (\$3,000) per nontank vessel for an amount that*~~  
8 *is based upon the administrator's costs in implementing this chapter*  
9 *relating to nontank vessels.*

10 *(2) Before January 1, 2012, the fee charged pursuant to*  
11 *subdivision (a) shall be an amount that does not exceed three*  
12 *thousand dollars (\$3,000) per vessel.*

13 (b) Notwithstanding subdivision (a), the administrator may  
14 charge a reduced fee under this section for nontank vessels  
15 determined by the administrator to pose a reduced risk of pollution,  
16 including, but not limited to, vessels used for research or training  
17 and vessels that are moored permanently or rarely move.

18 (c) The administrator shall deposit all revenue derived from the  
19 fees imposed under this section in the Oil Spill Prevention and  
20 Administration Fund established in the State Treasury under  
21 Section 8670.38.

22 (d) Revenue derived from the fees imposed under this section  
23 shall be spent for the purposes listed in subdivision (e) of Section  
24 8670.40, and shall not be used for responding to an oil spill.

25 SEC. 5. Section 8670.42 of the Government Code is amended  
26 to read:

27 8670.42. (a) The Department of Fish and Game and the State  
28 Lands Commission, independently, shall contract with the  
29 Department of Finance for the preparation of a detailed report that  
30 shall be submitted on or before January 1, 2013, and no less than  
31 once every four years thereafter, to the Governor and the  
32 Legislature on the financial basis and programmatic effectiveness  
33 of the state's oil spill prevention, response, and preparedness  
34 program. This report shall include an analysis of all of the oil spill  
35 prevention, response, and preparedness program's major  
36 expenditures, fees and fines collected, staffing and equipment  
37 levels, spills responded to, and other relevant issues. The report  
38 shall recommend measures to improve the efficiency and  
39 effectiveness of the state's oil spill prevention, response, and  
40 preparedness program, including, but not limited to, measures to

1 modify existing contingency plan requirements, to improve  
2 protection of sensitive shoreline sites, and to ensure adequate and  
3 equitable funding for the state's oil spill prevention, response, and  
4 preparedness program.

5 (b) (1) A report to be submitted pursuant to subdivision (a)  
6 shall be submitted in compliance with Section 9795.

7 ~~(2) Pursuant to Section 10231.5, this section is repealed on~~  
8 ~~January 1, 2017.~~

9 SEC. 6. Section 6226 is added to the Public Resources Code,  
10 to read:

11 6226. (a) On or before March 1, 2012, the commission, *in*  
12 *consultation with the Department of Conservation*, shall report to  
13 the Legislature on regulatory action, pending or already taken, and  
14 statutory recommendations for the Legislature to ensure maximum  
15 safety and prevention of harm during offshore oil drilling. The  
16 report shall include, but not be limited to, all of the following:

17 (1) A comprehensive set of requirements for offshore oil drilling  
18 rigs operating in state waters to have fully redundant and  
19 functioning safety systems to prevent a failure of a blowout  
20 preventer from causing a major oil spill.

21 (2) A complete description of a response plan to control a  
22 blowout and manage the accompanying discharge of hydrocarbons,  
23 including both of the following:

24 (A) The technology and timeline for regaining control of a well.

25 (B) The strategy, organization, and resources necessary to avoid  
26 harm to the environment and human health from hydrocarbons.

27 (3) Requirements for the use of the best available and safest  
28 technologies and practices, if the failure of equipment would have  
29 a significant effect on safety, health, or the environment.

30 (b) A report to be submitted pursuant to subdivision (a) shall  
31 be prepared in consideration of, but not limited to, all relevant *and*  
32 *applicable* information contained in reports and investigations  
33 related to the 2010 Deepwater Horizon oil spill in the Gulf of  
34 Mexico.

35 (c) (1) A report to be submitted pursuant to subdivision (a)  
36 shall be submitted in compliance with Section 9795 of the  
37 Government Code.



1     (2) Pursuant to Section 10231.5 of the Government Code, this  
2     section is repealed on January 1, 2016.

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